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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANK ANTHONY SANDOVAL,

Defendant and Appellant.

F056707

(Super. Ct. No. F08900810)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Wayne R. Ellison, Judge.

Jennifer A. Mannix, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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* Before Vartabedian, Acting P.J., Wiseman, J., and Cornell, J.

It was alleged in an information filed May 5, 2008, as follows: Appellant Frank Anthony Sandoval committed three offenses, viz. driving with a blood-alcohol content of .08 percent or more and causing injury to another person (Veh. Code, § 23153, subd. (b); count 1),¹ driving while under the influence of an alcoholic beverage or drug and causing injury to another person (§ 23153, subd. (a); count 2) and driving while driving privilege is suspended or revoked (§ 14601.2 subd. (a); count 3); in committing each of the count 1 and count 2 offenses he inflicted great bodily injury on a child under five years old (Pen. Code, § 12022.7, subd. (d)) and caused bodily injury to more than one victim (§ 23558); he had suffered a prior conviction of driving under the influence of an alcoholic beverage or drug (§ 23152, subd. (b)) within 10 years of committing the count 1 and count 2 offenses (§ 23540); and he had served a prison term for a prior felony conviction (Pen. Code, § 667.5, subd. (c)(8)).

Appellant moved to suppress evidence (Pen. Code, § 1538.5). The court denied the motion. Thereafter, appellant pled no contest to count 3, stipulated to each element of the count 1 and count 2 offenses and to the multiple-victim enhancement allegations, and admitted the prior prison term enhancement and the section 23540 prior conviction allegations. He did not stipulate to the great bodily injury enhancements.

The matter proceeded to jury trial. The jury convicted appellant on counts 1 and 2 and found true the multiple-victim allegations. The jury found not true the great bodily injury enhancement allegations.

The court imposed a prison sentence on count 1 of five years, consisting of the three-year upper term on the substantive offense, one year on the multiple-victim enhancement and one year on the prior prison term enhancement. On count 2, the court

¹ Except as otherwise indicated, all statutory references are to the Vehicle Code.

imposed, and stayed pursuant to Penal Code section 654, a four-year term, consisting of the three-year upper term on the substantive offense and one year on the multiple-victim enhancement. The court awarded appellant credit for time served on count 3.

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court's invitation to submit additional briefing. We will affirm.

FACTS

Yessenia Valencia testified to the following. On October 28, 2007, she was driving her car, with her two-year-old daughter in her car seat in the back seat, when another car, approaching from the opposite direction, veered into Valencia's lane. Valencia pulled over to the right as far as she could but the other car continued her direction. Valencia then pulled back to her left, in an attempt to avoid the oncoming car, but she was unsuccessful and the two cars collided.

The court informed the jury that appellant had stipulated to the following: appellant was driving the car that crashed into Valencia's car; at the time of the accident he was under the influence of an alcoholic beverage, he had a blood alcohol content of .27 percent and he committed an illegal act by driving on the wrong side of the roadway in violation of section 21650; and his illegal act resulted in injury to Valencia and her daughter.

DISCUSSION

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

The judgment is affirmed.